

STATE OF MICHIGAN  
COURT OF APPEALS

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TAMMY CHURCHILL, Individually and as  
Personal Representative of the Estate of RONALD  
J. CHURCHILL, Deceased,

UNPUBLISHED  
July 27, 2001

Plaintiff-Appellant,

v

ESTATE OF DARRELL J. CHESEBRO,  
Deceased,

No. 203285  
Gratiot Circuit Court  
LC No. 05-003552-NI

Defendant,

ON REMAND

and

GORDON L. RUMMER and CITY OF CARSON  
CITY,

Defendants-Appellees.

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Before: Hood, P.J., and Whitbeck and Wilder, JJ.

MEMORANDUM.

This Court previously issued its opinion affirming the trial court's grant of summary disposition for defendants pursuant to MCR 2.116(C)(7) and (C)(10). Plaintiff's application for leave to appeal was held in abeyance pending the resolution of *Robinson v City of Detroit*, 462 Mich 439; 613 NW2d 307 (2000). In light of the issuance of the decision in *Robinson, supra*, our Supreme Court, in lieu of granting leave to appeal, remanded this case to us so we may reconsider our decision in light of *Robinson*. On remand, we continue to affirm.

In *Robinson, supra* at 444, 452, our Supreme Court concluded that police officers owe a duty toward innocent passengers, but owe no duty to passengers who are themselves wrongdoers. The passenger seeking to recover for injuries allegedly caused by a negligent police pursuit bears the burden of proving personal innocence as a precondition to establishing the duty element of a cause of action. *Id.* Review of the record in the present case reveals that plaintiff cannot meet this burden of proof. In answers to interrogatories, plaintiff admitted that questions could not be answered due to the death of all occupants in the vehicle and any attempt to answer the questions

would be based on speculation. Mere speculation does not satisfy the factual support required to set forth a claim for trial. *Hall v Consolidated Rail Corp*, 462 Mich 179, 187; 612 NW2d 112 (2000). Accordingly, summary disposition was appropriate.

Affirmed.

/s/ Harold Hood  
/s/ William C. Whitbeck  
/s/ Kurtis T. Wilder